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Intelligence: Misguided Quest for Moral Purity

By JAMES R. SCHLESINGER

The following is excerpted from a statement last week by Mr. Schlesinger, who served as Director of Central Intelligence in 1973, to the Senate Select Committee on Intelligence.

The question before this committee and the Congress is not whether American intelligence should have a charter of enabling legislation. Such legislation has existed in skeletal form since the National Security Act of 1947. The question before you is whether to repeal the existing legislation and to replace it with a lengthy and detailed charter specifying countless do's and don'ts, establishing (until such legislation is again changed) the criteria, limits, and obligations not only for the intelligence community and the American people but for the entire international audience as well.

I submit that the proper path to follow to have an effective intelligence community for the United States is to retain the skeletal form and then amend it as necessary. Repealing the legislation will, by itself, create confusion by wiping out over 30 years of court decisions. Substituting a detailed charter will restrict future flexibility, severely handicap liaison relationships and agent recruitment, and grossly curtail special operations capabilities.

When virtually all democratic states maintain intelligence establishments, it is significant that other democracies have not seriously considered this type of legislation. The comprehensive legislative charter is an idea that was germinated in the investigations and exposures, much of it ill-advised, that started in 1975. The comprehensive charter is an idea whose time has passed—I believe beneficially passed. Much has been said in recent months about the desirability of easing the restrictions that have been placed upon the CIA in recent years. It is sometimes suggested that the charter would assist in that process.

Regrettably, it would not. A charter would intensify restriction. And more restriction, by any other name, is still more restriction.

In the last five years, incalculable damage has been done to the U.S. intelligence establishment. While we have been engaged in a quest for purity and in extended discussion of the meaning of righteousness

(or of self-righteousness), the intelligence instrument itself has been deteriorating. Morale has declined. Recruitment, internal and external, has suffered. The capacity of intelligence gathering has suffered concomitantly; both special operations and counterintelligence have been severely damaged. Our actions have been viewed with amazement by foreign intelligence agencies and foreign governments—with regret and apprehension by our friends and sheer *schadenfreude* by our enemies. Thus, the immediate goal for this nation—and for this committee—should be the rebuilding and revitalization of the intelligence establishment.

In the post-war period, despite a searing recollection of Pearl Harbor, this society examined with some trepidation the matter of secret intelligence. There was concern that an intelligence agency might become too powerful. That, in the intellectual ambience of those years, it might result in a Gestapo-type organization. Thus, there was recognition of a tension between secret intelligence and open democratic institutions. That tension has never disappeared. Nor has the need disappeared for a balanced judgment acknowledging the requirements of secret intelligence and the protection of democratic institutions. The dilemma is still there. It must be squarely faced. In 1947, it was wisely decided that the preservation of democratic societies required the acceptance of compromises regarding secret intelligence. That judgment not only remains valid today, it has become increasingly valid.

A detailed and lengthy charter is, in effect, a written constitution for the intelligence community. The consequence of such a written constitution will be the appearance of "strict constructionists" and "loose constructionists" regarding whether or not specific activities are permissible. In all probability, certain actions would be challenged in the courts on the basis that the CIA has exceeded its prescribed authorities. (This is a nation extraordinarily given to litigation.)

Indeed, it would have further effects. It would reinforce the already existing tendency for prospective operations to be extensively debated or deferred awaiting the judgment of the new specialists in intelligence law. (The General Counsel's office has, in recent years, been one of the few growth industries within intelligence.) It would further reinforce the debilitating tendency for intelligence to become inward-looking, dealing with domestic constraints and debates rather than devoted to external actions.

The detailed charter represents something akin to moral elephantiasis, based explicitly on the unstated premise that U.S. law is superior law placed above that of other nations. The charter, in effect, publicly and explicitly states the general conditions in which agents of the United States are authorized to violate the laws of other nations. Indeed, it has even been suggested that the domestic law on wiretapping be extended to provide federal judges with the authority to authorize electronic surveillance overseas even when it is prohibited by the laws of other nations.

In part, it is this obvious element of moral megalomania that, in the past, led other nations to be less than explicit regarding the conditions under which their intelligence establishments were permitted to operate. There are reasons for this veil of decency. I trust that the United States will not be the first nation to tear down this veil. Contrary to the current fashion, reticence is not invariably a vice.

Similarly, there remain advantages in deniability. Intelligence officers are institutionally expendable; not so, judges, Members of Congress, or Presidents. It is still advantageous that specific intelligence operations cannot be tied directly to judges any more than to elected officials.

Reflecting these broader considerations, I conclude that the quest for tablets of stone by which to guide the intelligence community is both misguided and self-defeating. In itself it suggests a misunderstanding of the intelligence function—and a distrust of intelligence personnel that would weaken both the sense of mission and morale in a period in which they must be strengthened.

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Schlesinger Is Critical Of Intelligence Charter

Associated Press

Former Central Intelligence Agency director James Schlesinger criticized a proposed national intelligence charter yesterday, saying it would bar U.S. operations such as the Canadians used to sneak Americans out of Tehran earlier this year.

His contention was quickly contradicted by Sen. Walter D. Huddleston (D-Ky.), co-author of the proposal and chairman of a Senate Intelligence subcommittee conducting hearings on it.

"I happen to know that is not so," Huddleston said, but the two agreed not to argue the matter further in public because of the sensitivity of the subject.

Schlesinger, who was CIA director for six months under President Nixon, said the charter would "enshrine in law" provisions that would keep the United States from doing for the Canadians what their Tehran embassy did for six Americans who managed to avoid capture by Iranian militants.

He said such action—by the CIA or others—also would have been precluded by President Carter's 1978 executive order on national intelligence.

Schlesinger would not elaborate, but an associate at yesterday's hearing, George Carver, indicated to reporters later that he apparently was referring to the executive order's various warnings against actions violating other laws—including those against passport falsification.

The Americans were evacuated using phony Canadian passports, and Carver said, "We could not issue an American passport to people we know are using aliases and are not Americans."

Huddleston would not comment further after the hearing except to say he felt sure the United States could have conducted such an operation if it had needed to do so.

And Intelligence Committee staff members quickly showed reporters



James Schlesinger, on crutches because of broken leg, appears at hearing.

charter provisions which say secret operations may be authorized by the president and carried out "notwithstanding any other provision of law."

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THE WASHINGTON STAR (GREEN LINE)
3 April 1980

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Charter for CIA Is Criticized By Schlesinger

By Allan Frank
Washington Star Staff Writer

Former CIA Director James R. Schlesinger yesterday urged the Senate to abandon its effort to write a charter governing the intelligence community and instead embrace a system of "rewards" for espionage officials who take risks in the "back alleys of the world."

Schlesinger told a subcommittee of the Senate Select Committee on Intelligence that the problem with American intelligence agencies is that the operatives no longer feel confident about promoting high-risk espionage that could reap great returns.

He urged the Congress to pass a joint resolution praising the intelligence agencies, noting and absolving their mistakes and spurring intelligence officers to greater heights.

Schlesinger, who also has served as secretary of defense, claimed that bureaucratic controls protecting military officers from possible congressional inquiries into cost overruns had probably doubled the cost of military equipment.

Using that analogy, he continued: "In the case of the intelligence establishment, we do not give those who are prepared to run risks sufficient protection. That's why intelligence analysis all too often comes out as mushy. On the one hand; on the other hand . . . It is possible that all things will occur."

"Or, in the case of (covert) operations, the tendency in recent years increasingly has been to cut off the high risk operations even if they may be highly rewarding," Schlesinger said.

Prompted by Sen. Daniel P. Moynihan, D-N.Y., who claimed that the

proposed bill amounts to a "tax code" that would induce bureaucratic paralysis to the intelligence agencies, Schlesinger harped on the effect the proposed charter would have on incoming intelligence officers.

"We'll have a whole new generation of recruits at the CIA who will practice themselves in this code," Schlesinger said. "They will devote endless discussions to how to skirt the code and where to avoid risk and less and less on what they should be doing or might be doing in the back alleys of the world."

Although he was director of the CIA for only six months in 1973, Schlesinger's experience in the intelligence community is broader than almost anyone's as a result of his service at defense, as chairman of the Atomic Energy Commission and as secretary of energy.

Arguing that the United States is engaging in "self-abuse" that only

benefits its enemies, Schlesinger said the revelations of CIA activities during the last five years have "done incalculable damage . . . special operations and counterintelligence have been severely damaged. Our actions have been viewed with amazement by foreign intelligence agencies."

He also charged that: "The United States could not have done what the Canadians did in removing Americans from Iran. It is precluded. I do not want to go into the details in unclassified session."

Schlesinger said such an operation to help another country would be prohibited under the proposed law and a 1978 executive order from President Carter, which sometimes is regarded as a precursor of a comprehensive intelligence charter.

His broadside on the inadequacies of the proposed charter to guide the country's intelligence agencies ran afoul of Sen. Walter D. Huddleston, D-Ky., the Charters and Guidelines Subcommittee chairman conducting the hearings and a co-sponsor of the 172-page bill.

Huddleston said "I happen to know it is not so" of Schlesinger's assertion that the United States would be unable to undertake an Iran-rescue-type operation.

Outside the committee room, George Carver, a former CIA official and now a colleague of Schlesinger's at the Georgetown University Center for Strategic and International Studies, elaborated by claiming that the United States would be prohibited from issuing false passports to foreigners using aliases.

Committee staff members immediately pointed out to reporters provisions of the proposed charter that would permit such operations.

One provision allows the president to use the Immigration and Naturalization Service (which issues passports) for intelligence operations and another authorizes the president to carry out and conceal operations "notwithstanding any other provision of law."

Schlesinger's testimony was the latest skirmish in a long-running battle before the Senate and House intelligence committees about whether the charter is needed and whether it would unduly restrict intelligence agency activities.

Only one of the other four witnesses yesterday, E. Drexel Godfrey Jr., a Rutgers University professor who once was a CIA official, argued strongly for the proposed charter.

Godfrey said the charter to strengthen and reorganize the intelligence community was necessary because "past operational scandals and misadventures not only put in question the ethical fitness of some elements of the intelligence community, but in so doing, undercut the credibility of the analytic and warning functions."

He said that "the wistfully romantic notion" that the Iranian and Afghan crises could have been prevented "had CIA operatives been fully deployed" is "nonsense."

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SCHLESINGER ASSAILS A CHARTER FOR C.I.A.

Says Specifying Its Powers Would
'Grossly Curtail' Intelligence
Operations and Hurt U.S.

By CHARLES MOHR
Special to The New York Times

WASHINGTON, April 2 — The debate over whether to change or even to specify the rules under which the nation's intelligence services operate became more spirited today as a former Director of Central Intelligence and a Senator clashed over how good the good old days of the agency had been.

James R. Schlesinger, who was chief of the C.I.A. for six months in 1973, said in his testimony that "incalculable damage" had already been done by disclosures of illegalities and improprieties by the intelligence agencies. He added:

"Substituting a detailed charter will restrict future flexibility, severely handicap liaison relationships and agent recruitment and grossly curtail special operations capabilities. I believe a detailed charter is an inherently bad idea that would permanently damage the intelligence capability of the United States."

Mr. Schlesinger also asserted that the proposed law and an existing Presidential executive order would have prevented the United States from undertaking operations like the one in which Canada assisted six Americans in escaping from Iran earlier this year.

Huddleston Disputes Schlesinger

Senator Walter D. Huddleston, Democrat of Kentucky, chief sponsor of a so-called legislative charter for the intelligence agencies, disputed Mr. Schlesinger's assertion about the Iran rescue, saying, "I happen to know it is not so."

Senator Huddleston, presiding over a hearing of the Senate Select Committee on Intelligence, said that he would also like to dispel the idea that the C.I.A. had been a perfect organization before Congressional committees brought to light a series of scandals in the mid-1970's.

Saying that "people tend to forget history," Senator Huddleston asserted that the agency had sometimes miscalculated, had engaged in ill-advised and ill-fated special operations such as the Bay of Pigs invasion, and had tried, without success, to use organized crime to achieve the assassination of Cuba's leader, Fidel Castro.

The question whether present or proposed restrictions would have prevented the United States from helping foreign nationals in the same way Canadian diplomats assisted the six Americans in Iran was raised by Mr. Schlesinger.

Question of False Passports

Outside the hearing room, he and a colleague, George Carver, who once headed the Vietnam task force at the Central Intelligence Agency, said that they believed President Carter's 1978 executive order governing the operations of intelligence agencies would have prevented American officials from issuing United States passports to foreigners who were using aliases. Canada apparently issued passports to the six Americans.

A section of the order says intelligence activities must be in accordance with applicable law, and there is a law prohibiting issuing of false, forged or mutilated passports. But legal and intelligence experts have said that the President would have been free to amend or waive his order and to tell the public about it only after the operation was completed. Senator Huddleston today cited several sections of his bill that he said would have covered such a problem, including authorization to conceal agency activities.

Most of the hearing today was devoted to whether it was appropriate or feasible for the United States to write detailed legislation governing the mission and behavior of its intelligence agencies. Mr. Schlesinger's answer was a strong no.

Another witness, E. Drexel Godfrey, a former C.I.A. director of current intelligence, firmly challenged this view and said that he hoped that the committee would place limits on the agency.

'Wistfully Romantic Notion'

Mr. Godfrey, now director of the masters of public administration program at Rutgers University, said in a statement:

"There are unmistakable signs that the Iranian and Afghanistan crises have encouraged a counter pressure against the safeguards of the new version. For two reasons, I find this counter pressure distressing. First, it is, I think, based on the wistfully romantic notion that had C.I.A. operatives been fully deployed when these crises situations erupted, somehow the agency might have successfully resolved them. This, of course, is nonsense.

"Secondly, the pressure to soften safeguards tends to obscure the original reasons for undertaking the delicate business of putting together a charter in the first place."

Past scandals, he added, "not only put in question the ethical fitness of some elements of the Intelligence community" but also tended to discredit the "analytic and warning functions" of intelligence.

Moynihan Fears Bureaucracy

New York's Democratic Senator, Daniel Patrick Moynihan, on the other hand, derisively calling the Huddleston bill a "tax code" that would contribute to bureaucratic caution in the C.I.A. The avoidance of risk, Senator Moynihan said, "is what we don't want in the intelligence services."

Mr. Schlesinger said that such legislation would create "a whole new generation of sea lawyers" who would concentrate more on legalities and less on "what they might and should be doing in the back alleys of the world." He said that a written charter remained "a Procrustean bed by which all future intelligence actions would be measured, stretched and foreshortened."

He also opposed suggestions that the C.I.A. be forbidden from employing journalists, clergymen or professors or from using their institutions as cover, saying, "No American should be denied the right to serve the United States in this sphere simply because of membership in a particular group."

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CIA and Georgetown

The Hilltop Connection

By Philipp Borinski

Georgetown University's special position within the political establishment of this country is not any hot news. Nixon kept referring to Kissinger and his political circle as the "Georgetown-Set", and in these days it has almost become a commonplace to speak of the SFS-faculty and the GU-run "Center for Strategic and International Studies" (CSIS), sprinkled as they are with former high government-officials, as a (republican) government in exile. What strikes, however, is the "special relationship" GU seems to enjoy with a particular part of the political establishment—the CIA, or, more accurately, the "pre-Carter-CIA".

"Unholy alliance" or "Entente cordiale"? These terms appear to characterize the respective viewpoints of the two camps in which the GU-community is split over the issue and who all too often fail to discuss it seriously. This article is meant to shift the debate somewhat from emotional or self-righteous mutual accusations, based on moral and political principles, to a more objective approach toward the matter, based on the available, for a Voice-reporter naturally limited information.

To the student-observer, the mentioned "special relationship" presents itself mainly in the form of personal bonds, on the academic level, between the CIA and CIA-related private organizations on the one side and GU on the other. Beyond that, however, these "CIA-academicians" do engage in open political activities, chiefly in the context of the current efforts to beef up a supposedly impotent CIA and of the Bush-campaign. Finally, the CIA qua CIA operated and presumably still operates on Campus—both overtly and covertly. It is those three points—academic relations, political activities and CIA-operations on Campus—that are worth illuminating in GU's "CIA-connection".

The list of former high CIA-officers now associated to GU/CSIS is indeed impressive. It even includes two retired Directors of Central Intelligence, James Schlesinger now senior adviser and chairman of study-group with the CSIS, and William Colby, a "friend of the School of Foreign Service". In the "Second rank" one finds names of CIA-career-officers who held crucial positions during their time of activity: Cord Meyer, formerly station chief in London, now senior research associate at the SFS; Jack Maury, formerly station chief in Athens till shortly after the coup of the colonels in April 1967, then legislative counselor to the CIA, now member of the MSFS-faculty; Ray Cline, former deputy director for intelligence, now executive director of the CSIS; George Carver, formerly station chief in Saigon and West Germany, now senior fellow at the CSIS. And Allan Goodman, professor of international politics at the SFS, is also an active CIA-officer, serving on Turner's presidential briefing staff.

To be sure, there remained a gray-zone between the politically oriented research-interests of retired CIA-officers and the limits GU could possibly go to in offering these individuals facilities for teaching and publishing, without compromising its reputation for academic freedom and practiced Catholic ideals. This gray-zone was filled out by the National Intelligence Study Center, founded and organized by Ray Cline, and the Consortium for the Study of Intelligence, with Cline as a prominent member and Roy Godson, professor of government at GU, as chief-coordinator. Comprised of former CIA-people, other retired government-officials and scholars of some of the country's top-universities, these organizations, according to Cline, "serve the purpose of encouraging serious study and writing on the role of intelligence".

Carver did not preclude the possibility that some colleagues of his "may privately engage in classified research". But who else except some "good old friends" being still on the government-payroll can turn up the necessary sources?

In the eyes of Father McSorley, well-known on Campus for his pacifist opinions, all these facts are simply a "disgrace". According to McSorley it is "harmful for GU to have persons on Campus who represent an organization guilty of severe violations of law, morality and human dignity". Only if they disassociate themselves from the values embodied by the CIA, he said, may they teach here. One may well assume that Father McSorley does not stand aloof with this view on our Campus.

In defending their presence at GU the persons in question themselves usually cite its high academic calibre and advantageous location as reasons for their decision to join it. "Most retired CIA-people want to stay in D.C., because they cannot do without their daily fix of interesting information and political action", Cline says. "When I started to look about for a place with the right atmosphere, administrative support and good research facilities, I discovered that Georgetown, in its kind of curriculum, faculty and students, came closer to my ideas than any other institution. In so far as Cline sees "a natural affinity, especially between the SFS and the Georgetown community".